IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 9641 of 2006(W)

PETITIONER:

SMT.CHELLAMMA PALANY,
DEVASWAMPARAMBU VEEDU, NEAR ST.JOSEPH'S
POOMTHOTTAM L.P. SCHOOL, PUNNAPRA P.O.,
ALAPPUZHA.

BY ADV. SRI.T.R.RAJAN

RESPONDENTS:
---

1. THE STATE OF KERALA, REP. BY THE
PRINCIPAL SECRETARY, GENERAL ADMINISTRATION
(FFP A), SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE UNION OF INDIA REP. BY THE
DEPUTY SECRETARY, MINISTRY OF HOME AFFFAIRS,
FREEDOM FIGHTERS DIVISION, 1ST FLOOR,
LOK NAYAK BHAVAN, NEW DELHI.

BY ADV. SRI.C.S.AJITH PRAKASH for R2
SRI. V.T.K. MOHANAN,GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE APPLICATION DATED 23.4.1998 SUBMITTED BY THE PETITIONER FOR PENSION UNDER THE SWATANTRATA SAINIK SAMMAN PENSION SCHEME BEFORE THE 2ND RESPONDENT.

EXT.P2: TRUE COPY OF THE COMMUNICATIOND ATED 05.01.1999 ISSUED BY THE UNDER SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVERNMENT OF INDIA TO THE PETITIONER.

EXT.P3: TRUE COPY OF THE COMMUNICATION DATED 28.12.2005 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXT.P4: TRUE COPY OF THE REPRESENTATION DATED 27.01.2006 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT WITH ACKNOWLEDGEMENT CARD.

RESPONDENT'S EXHIBITS:

EXT.R2(a): THE TRUE COPY OF THE LETTER DATED 08.05.2006 ISSUED BY GOVERNMENT OF INDIA.

/True Copy/

P.A to Judge.

T.R. RAMACHANDRAN NAIR, J

==========

W.P.(C). NO.9641 OF 2006

==========

Dated this the 2nd day of August, 2007.

JUDGMENT

The main prayer in the writ petition is for a direction to the 2nd respondent to grant pension under the SSS scheme to the petitioner based on Ext.P1 application. The petitioner's husband Shri. Kunjan Palany was a freedom fighter. He was a recipient of pension under the Kerala Freedom Fighter's Pension Scheme. He died on 15.04.1996. In Ext.P1, the claim is based on the imprisonment for two years in PE 7/1122, a case connected with the Punnapra Vayalar Struggle, and the period of imprisonment is from 6th Kanni 1125 ME to 5th Kanni 1127. Along with Ext.P1, the petitioner has produced various certificates including evidence to show the grant of State pension. She has produced extract of convicted Register also from the Central Prison along with the application. Ext.P3 is the letter addressed to the petitioner stating that the application along with the connected documents have been forwarded to the Government of India along with the verification report. Ext.P4 is a further representation submitted before the 2nd respondent.

2. The respondents have filed a counter affidavit. In the counter affidavit of the 1st respondent, it is submitted that the petitioner's husband was the recipient of Kerala Freedom Fighters Pension. It is

also stated that as per the original SSS Pension Scheme, only a person who suffered imprisonment of minimum six months in the mainland jails before the independence is eligible for SSS pension. But, the Central Government vide letter No. 6/1/9/FFP dated 07.04.2003 has liberalised the scheme stating that the conditional imprisonment of six months in the mainland jail before the independence would not apply in the case of Punnapra-Vayalar struggle. It is also stated that the documents produced by the petitioner were forwarded to the Government of India after due verification. In the counter affidavit filed by the 2nd respondent they have produced Ext.R2(a), the letter No.52/CC/K/58/2006-FF-SZ dated 08.05.2006 issued by the Under Secretary to Government of India, Ministry of Home Affairs addressed to Shi. Thomas C. George, Principal Secretary to Government of Kerala, General Administration (FFP A) Department. As per the above letter, certain further details have been sought for from the State Government. The Central Government has requested the State Government to provide the copy of the judgment in case number C.C. 280/1124, full judgment of the Appeal Case No. 15/50 along with clarification whether the sufferings of the petitioner's husband is related to Freedom Struggle at the earliest positively by 16.05.2006 so as to enable the Ministry to take decision on the claim of the petitioner.

3. If the documents required for from the State Government have already been forwarded with further clarifications to the Union of India, then the 2nd respondent will have to take a decision after considering them also. It is not evident from the counter affidavit filed by the 1st respondent whether all the details as requested for in the letter dated 08.05.2006 of the Government of India have been forwarded or not. Therefore, there will be a direction the 1st respondent to forward the required details sought for in the letter dated 08.05.2006 produced as Ext.R1(a) herein to the Government of India within six weeks from the date of receipt of a copy of this judgment, if not already forwarded. Since the matter is pending before the 2nd respondent, Government of India, there will be a direction to the 2nd respondent to consider the application of the petitioner on its merits and based on the records produced and relied by the petitioner and the State Government, within a period of three months from the date of receipt of details from the State Government.

The writ petition is disposed of accordingly.

T.R. RAMACHANDRAN NAIR, JUDGE.

rv

KURIAN JOSEPH &
T.R. RAMACHANDRAN NAIR, JJ

L.A.A. NO. 805 of 2001

13th day of July, 2007

JUDGMENT